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DEC 10 2002  
TECH CENTER 1600/2900

In re Patent Application of:

Attorney Docket No.:

**62781.000005**  
**Formerly:**  
**031855.0007**

N. LI, et al.

Application No.: 09/855,682

Group Art Unit: 1645

Filed: May 16, 2001

Examiner: Einsmann, J.C.

Title: DMA MARKERS FOR PIG LITTER SIZE

Director of the United States Patent and Trademark Office  
Washington, DC 20231

Transmitted herewith is an amendment in the above-identified application. Fees have been calculated as shown below:

CLAIMS AS AMENDED						
	Claims Remaining After Amendment	Highest Number Previously Paid For	Extra	Rate		Amount
				Large Entity	Small Entity	
Number of Claims in Excess of 20	10*	20	0	\$ 18.00	\$ 9.00	\$ 0.00
Independent Claims in Excess of 3	2	3	0	\$ 84.00	\$ 42.00	\$ 168.00
First Presentation of Multiple Dependent Claims				\$ 280.00	\$ 140.00	\$ 0.00
Extension Fee:	a) One Month			\$ 110.00	\$ 55.00	\$ 0.00
	b) Two Months			\$ 400.00	\$ 200.00	\$ 0.00
	c) Three Months			\$ 920.00	\$ 460.00	\$ 810.00
	d) Four Months			\$ 1440.00	\$ 720.00	\$ 0.00
	e) Five Months			\$ 1960.00	\$ 980.00	\$ 0.00
Other:						\$ 0.00
<b>TOTAL FEE DUE</b>						<b>\$978.00</b>

- ☒ No additional fee is required.
- ☒ A check in the amount of \$ 978.00 is attached.
- ☐ Charge \$ \_\_\_\_ to Deposit Account No. 50-0206.
- ☒ Charge any additional fees or credit any overpayment to Deposit Account No. 50-0206.

- ☐ Small Entity Status Claim:  
is hereby requested.
- ☐ is of record in this application.

December 5, 2002

LHP:cdh

Respectfully submitted,

By:   
Laurence H. Posorske  
Registration No. 34,698

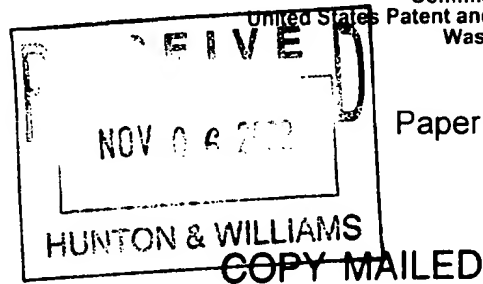


62781.7

United States Patent and Trademark Office

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BROBECK, PHLEGER & HARRISON, LLP  
ATTN: INTELLECTUAL PROPERTY DEPT.  
1333 H STREET, N.W. SUITE 800  
WASHINGTON, DC 20005



Paper No. 6

NOV 01 2002

In re Application of  
Ning Li, et al  
Application No. 09/855,682  
Filed: May 16, 2001  
Attorney Docket No. 031855.0007

OFFICE OF PETITIONS

DECISION ON PETITION  
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed October 7, 2002, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;<sup>1</sup>
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was

<sup>1</sup> Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

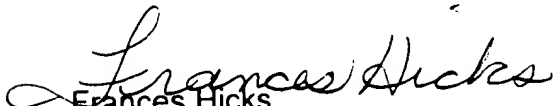
The instant pending application was filed on May 16, 2001, and was pending at the time of filing of the instant petition. Further, the instant nonprovisional application was copending with the prior-filed nonprovisional application, for which a claim for benefit of priority is now being sought. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted as of the date of filing the petition.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1634 for processing the amendment filed October 7, 2002 and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of priority to the prior-filed application, Application No. 09/329,796 (now Patent No. 6,291,174), filed June 10, 1999.

  
Frances Hicks  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

**ATTACHMENT:** Corrected Filing Receipt



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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

TECH CENTER 1600/290

#8/B

**Application Number:** 09/855,682

**Examiner:** Einsmann, J.C.

**Filing Date:** May 16, 2001

**Art Unit:** 1645

**Title:** DNA markers for Pig Litter Size

**Inventor:** Li, N., *et al.*

Commissioner of Patents and Trademarks  
Washington, D.C., 20231

**Response Under 37 C.F.R. § 1.111 to Paper Number 3**

Sir,

Responsive to the Office Action dated June 05, 2002, please amend the application as set forth below and consider the following remarks. A petition for a two (2) month extension of time with the requisite fee is enclosed.

**Introduction**

Claims 1 and 2 are currently pending in this application. Upon entry of the amendments, claims 1-10 will be pending.

**Amendments**

*Specification-*

Please amend the Specification as follows. A version with markings to show changes made to the specification is included herewith as Appendix A.

At Page 1, line 2, please replace the current paragraph with the following replacement paragraph:

**CROSS REFERENCE TO RELATED APPLICATIONS**

This application is a divisional application of Application No. 09/329,796, now U.S. Patent No. 6,291,174, filed June 10, 1999, which claims benefit of U.S. provisional application No. 60/088,963, filed June 10, 1998.

BH

GROUP CHARGE 00000064 09855682

NO. 0011001

163.00 OP

**09/855,682**